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Effective on 12/08/2004.
Fees pursuant to the Consolidated Appropriations Act, 2005 (H.R. 4818).

FEE TRANSMITTAL
For FY 2008

☐ Applicant claims small entity status. See 37 CFR 1.27

TOTAL AMOUNT OF PAYMENT	($)	510.00

Complete if Known	
Application Number	10/540,824
Filing Date	June 23, 2005
First Named Inventor	Jean-Yves Le Naour
Examiner Name	Dinh Thanh Le
Art Unit	2816
Attorney Docket No.	PF030002

METHOD OF PAYMENT (check all that apply)

☐ Check ☐ Credit Card ☐ Money Order ☐ None ☐ Other (please identify): _____

☑ Deposit Account Deposit Account Number: 07-0832 Deposit Account Name: Thomson Licensing , LLC

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FEE CALCULATION

1. BASIC FILING, SEARCH, AND EXAMINATION FEES

Application Type	FILING FEES Fee ($)	FILING FEES Small Entity Fee ($)	SEARCH FEES Fee ($)	SEARCH FEES Small Entity Fee ($)	EXAMINATION FEES Fee ($)	EXAMINATION FEES Small Entity Fee ($)	Fees Paid ($)
Utility	310	155	510	255	210	105	
Design	210	105	100	50	130	65	
Plant	210	105	310	155	160	80	
Reissue	310	155	510	255	620	310	
Provisional	210	105	0	0	0	0	

2. EXCESS CLAIM FEES

Fee Description	Fee ($)	Small Entity Fee ($)
Each claim over 20 (including Reissues)	50	25
Each independent claim over 3 (including Reissues)	210	105
Multiple dependent claims	370	185

Total Claims	Extra Claims	Fee ($)	Fee Paid ($)
_____ - 20 or HP =	_____	x _____	= _____

HP = highest number of total claims paid for, if greater than 20.

Indep. Claims	Extra Claims	Fee ($)	Fee Paid ($)
_____ - 3 or HP =	_____	x _____	= _____

HP = highest number of independent claims paid for, if greater than 3.

Multiple Dependent Claims Fee ($)	Multiple Dependent Claims Fee Paid ($)
_____	_____

3. APPLICATION SIZE FEE

If the specification and drawings exceed 100 sheets of paper (excluding electronically filed sequence or computer listings under 37 CFR 1.52(e)), the application size fee due is $260 ($130 for small entity) for each additional 50 sheets or fraction thereof. See 35 U.S.C. 41(a)(1)(G) and 37 CFR 1.16(s).

Total Sheets	Extra Sheets	Number of each additional 50 or fraction thereof	Fee ($)	Fee Paid ($)
_____ - 100 =	_____ / 50 =	_____ (round up to a whole number) x	_____ =	_____

4. OTHER FEE(S)

	Fees Paid ($)
Non-English Specification, $130 fee (no small entity discount)	
Other (e.g., late filing surcharge): Appeal Brief	$510.00

SUBMITTED BY

Signature		Registration No. (Attorney/Agent) 34,721	Telephone 212-971-0416
Name (Print/Type)	Jack Schwartz		Date December 12, 2007

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Before the Board of Patent Appeals and Interferences

Applicants	:	Jean-Yves Le Naour et al.
Serial No.	:	10/540,824
Filed	:	June 23, 2005
Title:		Highly Selective Filtering Device and Corresponding Filtering Method
Examiner:		Dinh Thanh Le
Art Unit:		2816

APPEAL BRIEF

May It Please The Honorable Board:

Appellants initiate a new appeal under 37 C.F.R. § 41.27 in response to the Final Rejection, dated May 14, 2007, of claims 1, 3, and 5 of the above-identified application. The fee of five hundred dollars ($510.00) for filing this Brief is to be charged to Deposit Account No. 07-0832. Enclosed is a single copy of this Brief.

Please charge any additional fee or credit any overpayment to the above-identified Deposit Account.

Appellants do not request an oral hearing.

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Certificate of Mailing under 37 CFR 1.8

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in a postage paid envelope addressed to: Mail Stop: Appeal Briefs - Patents, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date indicated below.

Signature _____ Date: 12/12/07

I. REAL PARTY IN INTEREST

The real party in interest of Application Serial No. 10/540,824 is the Assignee of record:

Thomson Licensing S.A.
46 Quai A. Le Gallo
F-92100 Boulogne-Billancourt, France

II. RELATED APPEALS AND INTERFERENCES

There are currently, and have been, no related Appeals or Interferences regarding Application Serial No. 10/540,824.

III. STATUS OF THE CLAIMS

Claims 1, 3, and 5 are rejected, and the rejection of claims 1, 3, and 5 is appealed.

IV. STATUS OF AMENDMENTS

All amendments were entered and are reflected in the claims included in Appendix I.

V. SUMMARY OF CLAIMED SUBJECT MATTER

Independent claim 1 provides a symmetrical filtering device (page 2, lines 24-26; page 6, lines 12-13; fig. 4d). A first asymmetrical bandpass filter has a given central frequency and a given bandwidth (page 2, lines 29-31; page 4, lines 24-30; fig. 2; fig. 3, ref. 21). A second asymmetrical bandpass filter is identical to the first asymmetrical bandpass filter (page 2, lines 31-32; page 4, lines 24-30; fig. 2; fig. 3, ref. 22). Frequency transposition means, connected between the first asymmetrical filter and the second asymmetrical filter, transpose the central frequency of the first filter to the same central frequency while inverting a spectrum around the central frequency (page 2, lines 32-37; page 4, line 35-page 5, line 5; figs. 3 & 4).

Dependent claim 3 includes the features of independent claim 1, along with the additional feature that the first and second bandpass filters are quartz filters (page 3, lines 12-13; page 4, lines 26-30; fig. 2).

Independent claim 5 recites a method for providing a symmetrical frequency response with asymmetrical filters (page 2, lines 24-26; page 6, lines 12-13; fig. 4d). A signal is

collectively filtered in a given frequency band having a central frequency, by means of a first asymmetrical filter, to obtain a first filtered signal (page 3, lines 22-27; page 5, lines 11-14; fig. 4a). The first filtered signal is transposed to place an image corresponding to the given frequency band in the same band, but with an inverted spectrum with respect to the central frequency (page 3, lines 27-30; page 5, lines 17-23; fig. 4b). The transposed signal is selectively filtered in the given frequency band, by means of a second asymmetrical filter which is identical to the first filter, to obtain a second filtered signal (page 3, lines 30-34; page 6, lines 8-13; figs. 4c & 4d).

VI. GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL

Claims 1, 3, and 5 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Van Der Woude et al. (U.S. Patent Application Publication No. 2002/0044021, S/N=09/862,283) (hereinafter "Van Der Woude") in view of von der Embse (U.S. Patent No. 4,860,321).

VII. ARGUMENT

Applicant respectfully submits that Van Der Woude, when taken alone or in combination with von der Embse, does not make the present claimed invention unpatentable. Thus, reversal of the Final Rejection (hereinafter "rejection") of claims 1, 3, and 5 under 35 U.S.C. § 103(a) is respectfully requested.

Rejection of Claims 1, 3, and 5 under 35 U.S.C. § 103(a) over Van Der Woude et al. (U.S. Patent Application Publication No. 2002/0044021, S/N=09/862,283) in view of von der Embse (U.S. Patent No. 4,860,321)

Reversal of the rejection of claims 1, 3, and 5 under 35 U.S.C. § 103(a) as being unpatentable over Van Der Woude et al. (U.S. Patent Application Publication No. 2002/0044021, S/N=09/862,283) (hereinafter "Van Der Woude") in view of von der Embse (U.S. Patent No. 4,860,321) is respectfully requested because the rejection makes crucial errors in interpreting the cited references. The rejection erroneously states that claims 1, 3, and 5 are made unpatentable over Van Der Woude in view of von der Embse.

Overview of the Cited References

Van Der Woude describes a filter arrangement having a local oscillator, two band-pass filters, and a mixer. The two band-pass filters have the same bandwidth f_B and center frequency f_c. The first band-pass filter has its output coupled to the input of the second band-pass filter by the mixer. The local oscillator is adapted to control the mixer (*See* Abstract).

Von der Embse describes a receiver for acquiring and tracking a data signal in a highly stressed environment. The receiver comprises first and second I.F. sections, a mixer for translation from the first I.F. frequency to the second I.F. frequency, a 2 kHz bandpass filter at the second I.F. frequency, signal translator for synchronous translation of the signal at the second I.F. frequency to baseband, a digitizer for complex sampling operation on the baseband signal, a microprocessor for processing the digital samples, and a numerically controlled oscillator coupled to the mixer and controlled by the microprocessor. The receiver includes a lock detector system adapted to determine whether the feedback loops are properly locked to the signal. The system is operable over the range of frequency and time offsets and over a wide variation in received carrier-to-noise power densities (*See* Abstract).

CLAIMS 1 and 3

Claim 1 of the present invention provides a symmetrical filtering device which includes a first asymmetrical bandpass filter having a given central frequency and a given bandwidth. The device also includes a second asymmetrical bandpass filter identical to the first asymmetrical bandpass filter. A frequency transposition means is connected between the first asymmetrical filter and the second asymmetrical filter. The frequency transposition means transposes the central frequency of the first filter to the same central frequency while inverting the spectrum around the central frequency. These features are not disclosed or suggested by Van Der Woude in view of von der Embse.

The Office Action correctly states that "[Van Der Woude] et al does not disclose that the filters are asymmetrical filters such as the quartz filters," as disclosed in the present claimed invention. Additionally, Van Der Woude is concerned with providing a filter arrangement with a variable bandwidth and variable center frequency of the output signal. The objective of Van Der Woude is wholly unlike that of the present claimed invention, which provides a "[s]ymmetrical filtering device" having a frequency response which is symmetrical, while retaining the advantages of an asymmetric bandpass filter such as a quartz

crystal. Furthermore, while Van Der Woude describes "[a] first band-pass filter having its output coupled to the input of [a] second band-pass filter by means of a mixer, and [a] local oscillator is adapted to control the mixer" (Van Der Woude, ¶ 0004), nowhere does Van Der Woude describe "frequency transposition means...which transpose the central frequency of the first filter to the same central frequency while inverting a spectrum around the central frequency," as recited in claim 1 of the present claimed invention. This feature, transposing the central frequency of the first filter to the same central frequency while inverting a spectrum around the central frequency, further distinguishes the present claimed invention from that of Van Der Woude.

Von der Embse describes a receiver operable in highly stressed environments, such as space vehicles. The component of the receiver cited by the Office Action is a crystal bandpass filter which, according to von der Embse, is "a 2 kHz bandpass filter used to limit the bandwidth seen by [a] digitizer and to center on the signal" (Von der Embse, col. 6, lines 32-35); however, von der Embse, similarly to Van Der Woude, does not disclose or suggest a "[s]ymmetrical filtering device," including first and second asymmetrical bandpass filters as in claim 1 of the present invention.

Applicant respectfully disagrees with the contention in the Office Action that it would have been obvious to use the crystal filter 335 in the receiver of von der Embse in the circuit of Van Der Woude. Von der Embse describes a receiver operable in highly stressed environments, such as space vehicles. Van Der Woude, which is completely unrelated to the receiver of von der Embse, is concerned with providing a filter arrangement with a **variable bandwidth** and variable center frequency of the output signal. Filter 335, which is merely one component of the entire receiver system, is described by von der Embse to perform the single function of providing an output signal with a **fixed bandwidth** of 2 kHz. Von der Embse does not suggest that it would be necessary or even desirable for filter 335 to have the characteristics of providing an output signal of a variable bandwidth and variable center frequency as in the present claimed invention. Thus, based on the teachings of Van Der Woude and von der Embse even if one were to pick and choose a single element, the crystal filter, of the system of von der Embse for use in the system of Van Der Woude there is no teaching or suggestion in either of these references that the combined system would operate as suggested by the present claimed invention. In fact, the crystal filter of von der Embse is designed for a different purpose and for operation in a different manner and environment than

that of the present claimed invention. Therefore, it is respectfully submitted that simply taking the crystal filter of von der Embse and using it in the system of Van Der Woude would not provide the present claimed invention. Furthermore when combining references under 35 U.S.C. § 103(a) the entire system of each reference must be considered and it is impermissible to simply pick and choose selected elements of each system in an attempt to prove an invention is obvious. In the present instance the Examiner is using impermissible hindsight to pick and choose individual elements of a reference, the filter of von der Embse, for combination with another reference, the system of Van Der Woude, to show the present invention. *See SmithKline Diagnostics, Inc. v. Helena Laboratories Corp.*, 859 F.2d 878, 886-87 (Fed. Cir. 1988) ("[The opponent] cannot pick and choose among the individual elements of assorted prior art references to recreate the claimed invention.").

Furthermore, Applicant respectfully disagrees with the contention in the Office Action on page 3 that using the crystal filter 335 in von der Embse in the circuit of Van Der Woude "for the purpose of providing a narrow pass-band with good stability in temperature" would make the present claimed invention unpatentable. Even if the combined system does have "a narrow pass-band with good stability in temperature," as suggested by the Office Action, the combined system would not be a "symmetrical filtering device," as recited in claim 1 of the present invention. Many filters, such as the crystal filter 335 in von der Embse, already have a narrow pass-band with good stability in temperature, but unlike the present claimed invention, do not have a symmetrical frequency response as produced by the filtering arrangement of the present claimed invention. Simply replacing the filter of Van Der Woude with the crystal filter of von der Embse alone would not accomplish the desired objective of the present claimed invention.

The combined system of Van Der Woude and von der Embse would produce an arrangement of crystal filters with a variable bandwidth and variable center frequency; however, a crystal filter with variable bandwidth and variable center frequency is not the same as a "[s]ymmetrical filtering device," as recited in claim 1 of the present invention. Van Der Woude does not describe a symmetrical filtering device, regardless of the type of filter used, so the inclusion of the crystal filter 335 in Van Der Woude's device would not produce the presently claimed invention. Furthermore, the combined system would not contain the feature of "frequency transposition means ... which transpose the central frequency of the first filter to the same central frequency while inverting a spectrum around the central

frequency"—which, as previously discussed, is a feature that further distinguishes the present invention from Van Der Woude. Unlike the present claimed invention, combining the filter from von der Embse to the filter arrangement of Van Der Woude, which performs its described function regardless of the kind of filter used, does not disclose or suggest "frequency transposition means ... which transpose the central frequency of the first filter to the same central frequency while inverting a spectrum around the central frequency." Consequently, withdrawal of the rejection under 35 U.S.C. § 103(a) is respectfully requested.

Dependent claim 3 is considered to be patentable based on its dependence on independent claim 1. Therefore, all arguments presented above with respect to claim 1 also apply to claim 3. Thus, withdrawal of the rejection of claim 3 under 35 U.S.C. § 103(a) is further respectfully requested.

In view of the above remarks, it is respectfully submitted that there is no 35 U.S.C. § 112 compliant enabling disclosure in Van Der Woude in view of von der Embse that makes claim 1 unpatentable. As claim 3 is dependent on claim 1, it is respectfully submitted that this claim is allowable for the same reasons as discussed above regarding claim 1. It is thus further respectfully submitted that this rejection is satisfied and should be withdrawn.

CLAIM 5

Claim 5 of the present invention provides a method for providing a symmetrical frequency response with asymmetrical filters. A signal is collectively filtered in a given frequency band having a central frequency, by means of a first asymmetrical filter, to obtain a first filtered signal. The first filtered signal is transposed to place an image corresponding to the given frequency band in the same band, but with an inverted spectrum with respect to the central frequency. The transposed signal is selectively filtered in the given frequency band, by means of a second asymmetrical filter which is identical to the first filter, to obtain a second filtered signal. These features are not disclosed or suggested by Van Der Woude in view of von der Embse.

The Office Action correctly states that "[Van Der Woude] et al does not disclose that the filters are asymmetrical filters such as the quartz filters," which are disclosed in the present claimed invention. Additionally, Van Der Woude is concerned with providing a filter arrangement with a variable bandwidth and variable center frequency of the output signal.

The objective of Van Der Woude is wholly unlike that of the present claimed invention, which recites a "[m]ethod for providing a symmetrical frequency response with asymmetrical filters" while retaining the advantages of an asymmetric bandpass filter such as a quartz crystal. Furthermore, while Van Der Woude describes "[a] first band-pass filter having its output coupled to the input of [a] second band-pass filter by means of a mixer, and [a] local oscillator is adapted to control the mixer" (Van Der Woude, ¶ 0004), nowhere does Van Der Woude describe that "[a] first filtered signal is transposed to place an image corresponding to the given frequency band in the same band, but with an inverted spectrum with respect to the central frequency," as recited in claim 5 of the present claimed invention. This feature, transposing the first filtered signal to place an image corresponding to the same frequency band while inverting a spectrum around the central frequency, further distinguishes the present claimed invention from that of Van Der Woude.

Von der Embse describes a receiver operable in highly stressed environments, such as space vehicles. The component of the receiver cited by the Office Action is a crystal bandpass filter which, according to von der Embse, is "a 2 kHz bandpass filter used to limit the bandwidth seen by [a] digitizer and to center on the signal" (Von der Embse, col. 6, lines 32-35); however, von der Embse, similarly to Van Der Woude, does not disclose or suggest a "[m]ethod for providing a symmetrical frequency response with asymmetrical filters," as recited in claim 5 of the present invention.

Applicant respectfully disagrees with the contention in the Office Action that it would have been obvious to use the crystal filter 335 in the receiver of von der Embse in the circuit of Van Der Woude. Von der Embse describes a receiver operable in highly stressed environments, such as space vehicles. Van Der Woude, which is completely unrelated to the receiver of von der Embse, is concerned with providing a filter arrangement with a **variable bandwidth** and variable center frequency of the output signal. Filter 335, which is merely one component of the entire receiver system, is described by von der Embse to perform the single function of providing an output signal with a **fixed bandwidth** of 2 kHz. Von der Embse does not suggest that it would be necessary or even desirable for filter 335 to have the characteristics of providing an output signal of a variable bandwidth and variable center frequency. Thus, based on the teachings of Van Der Woude and von der Embse, even if one were to pick and choose a single element, the crystal filter, of the system of von der Embse for use in the system of Van Der Woude there is no teaching or suggestion in either of these

references that the combined system would operate as suggested by the present claimed invention. In fact, the crystal filter of von der Embse is designed for a different purpose and for operation in a different manner and environment than that of the present claimed invention. Therefore, it is respectfully submitted that simply taking the crystal filter of von der Embse and using it in the system of Van Der Woude would not provide the present claimed invention. Furthermore when combining references under 35 U.S.C. § 103(a) the entire system of each reference must be considered and it is impermissible to simply pick and choose selected elements of each system in an attempt to prove an invention is obvious. In the present stand the Examiner is using impermissible hindsight to pick and choose individual elements of a reference, the crystal filter of von der Embse for combination with another reference, the system of Van Der Woude to show the present invention. *See SmithKline Diagnostics, Inc. v. Helena Laboratories Corp.*, 859 F.2d 878, 886-87 (Fed. Cir. 1988) ("[The opponent] cannot pick and choose among the individual elements of assorted prior art references to recreate the claimed invention.").

Furthermore, Applicant respectfully disagrees with the contention in the Office Action on page 3 that using the crystal filter 335 in von der Embse in the circuit of Van Der Woude "for the purpose of providing a narrow pass-band with good stability in temperature" would make the present claimed invention unpatentable. Even if the combined system does have "a narrow pass-band with good stability in temperature," as suggested by the Office Action, the combined system would not be a "[m]ethod for providing a symmetrical frequency response with asymmetrical filters," as recited in claim 5 of the presently claimed invention. Many filters, such as the crystal filter 335 in von der Embse, already have a narrow pass-band with good stability in temperature, but unlike the presently claimed invention, do not provide a symmetrical frequency response. Simply replacing the filter of Van Der Woude with the crystal filter of von der Embse alone would not accomplish the desired objectives of the present claimed invention.

The combined system of Van Der Woude and von der Embse would provide an arrangement of crystal filters with a variable bandwidth and variable center frequency; however, a crystal filter with variable bandwidth and variable center frequency is not the same as a "[m]ethod for providing a symmetrical frequency response with asymmetrical filters," as recited in claim 5 of the present invention. Van Der Woude does not describe a method of producing a symmetrical frequency response, regardless of the type of filter used,

so the inclusion of the crystal filter 335 in Van Der Woude's device would not produce the present claimed invention. Furthermore, the combined system would not contain the feature that "[a] first filtered signal is transposed to place an image corresponding to the given frequency band in the same band, but with an inverted spectrum with respect to the central frequency"—which, as previously discussed, is a feature which further distinguishes the present claimed invention from Van Der Woude. Unlike the present claimed invention, combining the filter from von der Embse to the filter arrangement of Van Der Woude, which performs its described function regardless of the kind of filter used, does not disclose or suggest that "[a] first filtered signal is transposed to place an image corresponding to the given frequency band in the same band, but with an inverted spectrum with respect to the central frequency." Consequently, withdrawal of the rejection under 35 U.S.C. § 103(a) is respectfully requested.

In view of the above remarks, it is respectfully submitted that there is no 35 U.S.C. § 112 compliant enabling disclosure in Van Der Woude in view of von der Embse that makes claim 5 unpatentable. It is thus further respectfully submitted that this rejection is satisfied and should be withdrawn.

VIII CONCLUSION

Van Der Woude, when taken alone or in combination with von der Embse, neither discloses nor suggests a "[s]ymmetrical filtering device," or "frequency transposition means...which transpose the central frequency of the first filter to the same central frequency while inverting a spectrum around the central frequency," as recited in claim 1 of the present invention. Additionally, Van Der Woude, when taken alone or in combination with von der Embse, neither discloses nor suggests a "[m]ethod for providing a symmetrical frequency response with asymmetrical filters" or that "[a] first filtered signal is transposed to place an image corresponding to the given frequency band in the same band, but with an inverted spectrum with respect to the central frequency," as recited in claim 5 of the present invention. As claim 3 is dependent on independent claim 1, claim 3 is also patentable over Van Der Woude in view of von der Embse. Therefore, Van Der Woude and von der Embse, when taken alone or in combination, do not make the present claimed invention unpatentable.

Accordingly it is respectfully submitted that the rejection of claims 1, 3, and 5 should be reversed.

Respectfully submitted,
Jean-Yves Le Naour et al.

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Patent Operations
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December 12, 2007

APPENDIX I - APPEALED CLAIMS

Please amend the claims as follows:

1. (Previously Presented) Symmetrical filtering device comprising:

- a first asymmetrical bandpass filter having a given central frequency and a given bandwidth,
- a second asymmetrical bandpass filter identical to the first asymmetrical bandpass filter, and
- frequency transposition means, connected between the first asymmetrical filter and the second asymmetrical filter, which transpose the central frequency of the first filter to the same central frequency while inverting a spectrum around the central frequency.

2. (Cancelled)

3. (Previously Presented) Device according to claim 1, wherein the first and second bandpass filters are quartz filters.

4. (Cancelled)

5. (Previously Presented) Method for providing a symmetrical frequency response with asymmetrical filters, wherein:
collectively filtering a signal in a given frequency band, having a central frequency, by means of a first asymmetrical filter, to obtain a first filtered signal,
transposing the first filtered signal to place an image corresponding to the given frequency band in the same band but with an inverted spectrum with respect to the central frequency, and
selectively filtering the transposed signal in the given frequency band, by means of a second asymmetrical filter, to obtain a second filtered signal, the second filter being identical to the first filter.

6. (Cancelled)

APPENDIX II - EVIDENCE

Applicant does not rely on any additional evidence other than the arguments submitted hereinabove.

APPENDIX III - RELATED PROCEEDINGS

Applicant respectfully submits that there are no proceedings related to this appeal in which any decisions were rendered.

APPENDIX IV - TABLE OF CASES

1. *SmithKline Diagnostics, Inc. v. Helena Labs. Corp.*, 859 F.2d 878, 886-87 (Fed. Cir. 1988)

APPENDIX V - LIST OF REFERENCES

U.S. Patent/Pub. No.	Issued Date	102(e) Date	Inventors
2002/0044021	April 18, 2002		Van Der Woude et al.
4,860,321	August 22, 1989		Von der Embse

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